

MEMORANDUM

DATE: March 14, 2008

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell
Chairperson
State Council for Persons with Disabilities

RE: H.B. 286 [District Facilitation of CHIP Enrollment]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 286 which promotes enrollment in the Delaware Healthy Children Program [Delaware's version of the federal Children's Health Insurance Program (CHIP) initiative]. As authorized by the federal regulation, school districts would be required to contract with the Department of Health and Social Services (DHSS) to share information about children participating in reduced meals/milk programs. Parents could "opt out" of disclosure without affecting their children's eligibility for the reduced meals/milk programs. Safeguards are mandated to limit use of information to screening for CHIP and Medicaid eligibility.

For background, attached please find a January 10, 2008 News Journal article and excerpt from the federal regulation [7 C.F.R. 235.6(f)] upon which the legislation is based. SCPD endorses the proposed legislation subject to the sponsors' consideration of the following amendments.

First, the Delaware Constitution contemplates that the title of legislation will be accurate. Wilmington Medical Center v. Bradford, 382 A.2d 1338 (Del. 1978); DuPont v. Director of Division of Revenue, 347 A.2d 653 (Del. 1975). Out of an abundance of caution, since H.B. 286 is designed to facilitate enrollment in both CHIP and Medicaid, the title could be amended as follows:

AN ACT TO AMEND TITLE 14 AND TITLE 16 OF THE DELAWARE CODE TO
ASSIST ENROLLMENT IN THE MEDICAID AND DELAWARE HEALTHY
CHILDREN PROGRAMS.

Second, consistent with the federal regulation, charter schools could also participate in this program. However, H.B. 286 is limited to districts (line 46). Charter schools are considered public schools. See Title 14 Del.C. §§501 and 503. Indeed, some current and prospective charter schools target "low income" students. See, e.g., attached January 12 and 18, 2008 News Journal articles describing the Prestige Academy. Moreover, parochial and private schools could also voluntarily participate in sharing information with DHSS to promote Medicaid and CHIP enrollment. In summary, the

sponsors could consider amending H.B. 286 to cover charter schools and authorize DHSS to contract with non-public schools which are willing to adhere to the same protocols as districts.

Third, the federal regulation contemplates that only the parent/guardian in the household can consent to opt out of sharing information with DHSS:

Only the parent or guardian who is a member of the household or family for purposes of the free and reduced price meal or free milk application may decline the disclosure of eligibility information.

7 C.F.R. 245.6(f)(5). This limitation is not reflected in H.B. 286. For clarity, the sponsors may wish to consider inserting “within a qualifying household” after the word “guardian” in line 23.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Ruth Ann Minner
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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